City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 2303922

Applicant Name: Ron Meckler, Alaris Group for John Peranzi

Address of Proposal: 2815 Boylston Avenue East

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future construction of a minor communication utility (Cingular Wireless) consisting of three (3) panel antennas on the roof of an existing apartment building. (Shelby Apartments) Project includes equipment cabinet to be located inside existing equipment penthouse on roof.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility in a residential Lowrise Three (L3) zone.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

SEPA DETERMINATION: [ ] EXEMPT [ ] DNS [ ] EIS

[X] DNS with conditions

[ ] DNS involving non-exempt grading or demolition involving another agency with jurisdiction

BACKGROUND DATA

Site Location and Description

The subject property is located in a Multi-Family Residential Lowrise Three (L3) zone at 2815 Boylston Avenue East. The site is triangular in shape and is surrounded by Franklin Avenue East, Boylston Avenue East and two properties to the south, with an apartment structure on each property, in the East Lake Union neighborhood of Seattle.

The site is developed with an existing (5) five story apartment building. The surrounding zoning and uses are:

North: Multi-family residential, L3 zone
East: Single Family residential, SF 5000 zone
South: Multi-family residential L2 and L3 zones
West: Multi-family residential, L-2 zone

Proposal Description

Master use permit to establish use for installation of a minor communication utility (Cingular Wireless) on the roof of an existing apartment building (Shelby Apartments). Project includes three rooftop antennas. One is proposed to be enclosed in a tubular metal shroud resembling a chimney and two are proposed to be mounted on an equipment penthouse located on the roof of the building.

The top of the proposed minor utility and screening is proposed at 48 feet 4 inches above existing grade. The top of the penthouse is fifty-one (51) feet five (5) inches. The height limit for the L3 zone is thirty (30) feet above grade and may extend to 35 feet with a pitched roof that has a minimum slope of 6:12. Approval through an Administrative Conditional Use Permit is required for both locating a minor communication utility in a residential zone and for constructing minor communication utilities that exceed the height limit of the zone. The applicant proposes two antenna sectors will be flush mounted on and painted to match the existing rooftop penthouse. The remaining sector will be hidden within RF transparent shroud stealth designed as a chimney textured to match the existing brick façade of the building. The outdoor radio equipment cabinets will be located within the existing penthouse.

The antennas will be flush mounted and the mounting pipe and brackets will project approximately 6 inches from the existing penthouse wall. The entire antenna assembly projects approximately 11 inches from the existing penthouse structure. The antennas, antenna mounts and visible cables will be painted to match the existing penthouse wall. The two antennas will be integrated into the pilasters on the northwest side of the penthouse. The condenser is enclosed with in the penthouse structure. The proposal also includes replacement stairs, built to meet code, and required to access the penthouse. Only the railings for the stairs will be visible above the parapet wall.

Public Comment

No comment letters were received during the comment period that ended August 20, 2003.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

1. *The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

According to the plans, the antennas will conform to codified requirements regarding setbacks and visual impacts (SMC 23.57.011). To provide for the least intrusive facility in a lowrise neighborhood, two antenna sectors will be flush mounted on, and painted to match, the existing rooftop penthouse. The remaining sector, located near the southwest corner of the rooftop, will be hidden within a RF transparent stealth shroud designed as a chimney textured to match the existing brick façade of the building.

The outdoor radio equipment cabinets will be located within the existing rooftop penthouse, and thus will not be visible. The proposed facility will not emit smoke, noise, odors, light and glare or create hazardous waste. The proposed facility will not generate any traffic beyond approximately one (1) vehicle trip per month for routine maintenance. There will be no displacement of residential dwelling unit(s).

The views from neighboring residential structures would not be altered by the presence of the facility. The applicant has provided photographically simulated evidence suggesting that the visual intrusion would be minor.

The proposed minor communication utility is not likely to result in substantially detrimental compatibility impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once it is constructed, and cell phone coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and any noise associated with the equipment cabinet will be shielded by the walls of the penthouse room in which it is to be located. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted, the proposed antennas will be entirely concealed in an RF transparent shroud, for screening, to resemble a chimney from view or will be mounted against the wall of a recessed penthouse and will be as inconspicuous as possible, within the parameters of the SMC, while remaining functionally effective. Therefore, the proposal complies with this criterion.

23.57.016 Visual Impacts and Design Standards:

A. *Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.*

The facility has been integrated with the design of the building to provide an appearance as compatible as possible with the structure. Two antenna sectors are to be flush-mounted to the existing penthouse centrally located atop the roof. The antennas are painted to match the penthouse. The third

antenna sector, one antenna, is proposed within an RF transparent chimney shroud that appears to be an architectural feature of the existing building. The screened antennas will be sympathetic in materials and design to that of a residential chimney. Therefore, the proposal complies with this criterion (see applicant's declarations and submitted plans).

B. Not Applicable.

C. If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.

The applicant's plans depict screening that extends to the top of the proposed facilities. Integration of the screening facility into the architectural design of the existing building is proposed via screen shapes similar to that of a brick chimney and by using screen colors that generally blend with the color of the host building.

D. Not Applicable.

E. Not Applicable.

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

No existing antennas or minor communication utility equipment exists on the subject structure. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

G. Not Applicable.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*
    - *a.) the antenna is at least one hundred feet (100') from a MIO boundary, and*
    - *b.) the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The applicant's RF engineer has provided evidence (Report from TRK Engineering, dated June, 2003) that the proposed antenna height is the minimum height necessary to ensure the effective functioning of the utility in the most inconspicuous manner possible. The antenna, screened as a residential chimney, extends approximately 5 feet 10 inches above the parapet and the other two antennas are attached to the equipment penthouse and do not extend above the penthouse roof. Therefore, the proposal complies with this criterion.

5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

   The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this requirement does not apply to the subject proposal.

SUMMARY

The proposed project is consistent with the administrative conditional use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED**.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 24, 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300. Furthermore, the Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

1. Screening for sector (1) one, shall be integrated with architectural design, material, shape and color that is sympathetic to that of a residential chimney architecturally compatible with this building.

2. Sector (2) two and (3) three will be painted to match the color of the rooftop penthouse.

SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: February 16, 2004
Joan S. Carson, Land Use Planner II
Department of Planning and Development

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